

No. 20-3875

UNITED STATES COURT OF APPEALS
FOR THE SIXTH CIRCUIT

FILED
Oct 08, 2020
DEBORAH S. HUNT, Clerk

In re: NATIONAL PRESCRIPTION OPIATE)
LITIGATION)

In re: STATE OF OHIO BOARD OF)
PHARMACY,)
)

Petitioner.)

ORDER

Before: SUHRHEINRICH, GIBBONS, and KETHLEDGE, Circuit Judges.

In this multidistrict litigation (“MDL”), the district court ordered non-party the State of Ohio Board of Pharmacy (“the Board”) to produce additional data from its prescription monitoring database, the Ohio Automated Rx Reporting System (“OARRS”). The Board petitions for a writ of mandamus, asking that we compel the district court to vacate its discovery order or certify the order for immediate appeal under 28 U.S.C. § 1292(b). The Board also moves to stay the district court’s order pending review of its mandamus petition. The Ohio Attorney General has filed an amicus brief in support of the Board’s mandamus petition.

The underlying MDL comprises thousands of cases brought by various public entities against prescription drug manufacturers, distributors, and retailers in response to the Nation’s ongoing opioid epidemic. *See In re Nat’l Prescription Opiate Litig.*, 956 F.3d 838, 841 (6th Cir. 2020). These cases have been assigned to distinct case management tracks. The present matter concerns the cases in “Track Three,” consisting of public nuisance claims filed by Lake and

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Trumbull Counties, Ohio (“the Counties”), against various retail pharmacies (“the Pharmacies”) based on their allegedly improper distribution and dispensation of prescription opioids. During discovery in an earlier case management track, the Board agreed to produce certain statewide OARRS data. In Track Three, the Pharmacies sought additional OARRS data—specifically, the actual names and addresses for prescribers and dispensers—that they deemed critical to their defense against the Counties’ dispensation claims. When the Board failed to disclose the requested data, the Pharmacies moved to compel. The district court granted the motion to compel and declined to authorize an immediate appeal under § 1292(b). This mandamus petition and stay motion followed.

By order entered on September 15, 2020, we directed the Pharmacies to file a response to the mandamus petition, invited the district court to file a response to the same, and administratively granted the Board’s motion for a stay. The district court and the Pharmacies have since filed their respective responses.

Upon review, the mandamus petition is **DENIED** for substantially the reasons stated by the district court in its response, and the stay granted in the September 15, 2020 order is **VACATED**.

ENTERED BY ORDER OF THE COURT

A handwritten signature in black ink, appearing to read "Deborah S. Hunt", written over a horizontal line.

Deborah S. Hunt, Clerk